

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **March 12, 2002**

AGENDA ITEM NO.: 13

CONSENT: **X**

REGULAR:

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Change In City Code Sections 36-149.1 And 36-171 For Application Of Penalty On Local Delinquent Taxes.**

RECOMMENDATION: Adopt an ordinance amending City Code Sections 36-149.1 and 36-171 for application of penalty on local delinquent taxes.

SUMMARY: On November 27, 2001 the City Code was amended to ensure consistency with the practices of Billings and Collections in the application of interest on delinquent taxes. Since the action on November 27, 2001, it was identified that the City Code does not reference Section 58.1-3531 of the Code of Virginia in allowing any penalty to be assessed on the full amount of the tangible personal property tax levied including any amount to be paid by the Commonwealth in conjunction with the Personal Property Tax Relief Act.

PRIOR ACTION(S): None

FISCAL IMPACT: None

CONTACT(S): Michael Hill 847-1307
Donna Witt 847-1483

ATTACHMENT(S): Revised City Code Sections 36-149.1 and 36-171.

REVIEWED BY:

AN ORDINANCE TO AMEND AND REENACT SECTIONS 36-149.1 and 36-171 OF
THE CODE OF THE CITY OF LYNCHBURG, 1981, THE AMENDED SECTIONS
RELATING TO PENALTY ON LOCAL DELINQUENT TAXES.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG:

1. That Sections 36-149.1 and 36-171 of the Code of the City of Lynchburg, 1981, be and the same are hereby amended and reenacted as follows:

Sec. 36-149.1. Personal property tax on motor vehicles, trailers and boats.

(a) Tax liability. There shall be a personal property tax at the rate established in Section 36-149 on motor vehicles, trailers and boats (taxable property) which have a situs within the city on January first of each year and which acquire a situs within the city on or after January second, 1985, and all years thereafter. When taxable property acquires a situs within the city on or after January second, the personal property tax for that year shall be prorated on a monthly basis. When taxable property with a situs in the city is transferred to a new owner, personal property tax will be assessed to the new owner prorated on a monthly basis for the portion of the tax year during which the new owner owns the taxable property. For purposes of proration, a period of more than one-half (1/2) of a month shall be counted as a full month and a period of less than one-half (1/2) of a month shall not be counted. All taxable property shall be assessed as of January first of each year or, if it acquires situs or has its title transferred after January first, as of the first day of the month in which the taxable property acquires situs within the city or has its title transferred.

(b) Refunds. When any taxable property loses its situs within the city or its title is transferred, the taxpayer shall be relieved from personal property tax and receive a refund for personal property tax already paid, prorated on a monthly basis, upon application to the commissioner of the revenue; provided, that application is made within three (3) years from the last day of the tax year during which the taxable personal property lost situs or had its title transferred. No refund of less than five dollars (\$5.00) shall be issued to a taxpayer, unless specifically requested by the taxpayer. No refund shall be made if the taxable property acquires a situs within the Commonwealth in a non pro-rating locality. When any taxable property loses its situs within the city and acquires a situs within another state the taxpayer shall not be entitled to a refund except upon a showing of sufficient evidence that the taxpayer has been assessed and has paid taxes on such taxable property for the remainder of the tax year to such state.

(c) Filing dates. Returns of all taxable property with a situs within the city on January first of a tax year shall be filed on or before April fifteenth of each tax year. Returns of all taxable property which acquires a situs within the city or which has its title transferred after January first of a tax year shall be filed within thirty (30) days of the date on which situs is acquired or title is transferred.

(d) Payment dates. Taxes on all taxable property with a situs within the city on January first of each year shall be paid on or before November fifteenth of such tax year. Taxes on all taxable property which acquires a situs within the city or has its title transferred after January first of a tax year and before the City's first cut-off date for the preparation of personal property tax bills for the tax year shall be paid on or before November fifteenth of the tax year. Taxes on all taxable property which acquires a situs within the city or has its title transferred after the tax year shall be paid on or before February fifteenth of the following tax year.

(e) Late payment penalty. Any person who fails to pay any personal property taxes on or before the due date as provided above shall incur a penalty of ten per cent (10%) of the ~~tax due~~ total amount of the tax levied, including any amount to be paid by the Commonwealth, which penalty shall become a part of the taxes due.

(f) Exemption when taxes paid elsewhere in commonwealth. An exemption from this tax and penalties arising therefrom shall be granted for any tax year or portion thereof during which the property was legally assessed by another jurisdiction in the commonwealth, and such tax on the assessed property was paid.

(g) Notwithstanding any other provisions of this chapter, the provisions of this section shall also apply to all motor vehicles, trailers and boats used in a trade or business which acquire a situs within the city during a tax year.

Sec. 36-171. When tax installments due; penalty; partial payments.

(a) Effective on and after July 1, 1974, one-fourth of the city tax assessed on real estate for each fiscal year shall be paid to the city collector between November first and November fifteenth, inclusive, of the fiscal year for which the tax is assessed, one-fourth shall be paid to the city collector between January first and January fifteenth, inclusive, of the fiscal year for which the tax is assessed, one-fourth shall be paid to the city collector between March first and March fifteenth, inclusive, of the fiscal year for which the tax is assessed, and the remaining one-fourth paid to the city collector between May first and May fifteenth, inclusive, of the fiscal year for which said tax is assessed.

(b) If any installment of taxes due on any particular piece of property shall not be paid as and when due as above set forth, said installment shall at once become due and collectible with ten (10) per cent penalty thereon.

(c) All city taxes for each year or fiscal year on tangible personal property, assessed under section 36-149 of this code, and all city taxes for each year or fiscal year on machinery and tools, assessed under section 36-151 of this code, shall be paid to the

city collector between November first and November fifteenth, inclusive, of the year or fiscal year for which the tax is assessed.

(d) If any city taxes due on any tangible personal property for any year or fiscal year assessed under section 36-149 of this code, or on machinery and tools, assessed under section 36-151 of this code, shall not be paid as and when as above provided, then the same shall have added thereto the penalty of ten (10) per cent on the total amount of taxes levied, including any amount to be paid by the Commonwealth.

(e) Interest at the rate of eight (8) per cent per annum from the first day of the month following the month in which taxes on real estate, tangible personal property and machinery and tools are required to be paid shall be collected upon the principal and applicable penalty then remaining unpaid. Effective on and after July 1, 1995, interest at the rate of ten (10) per cent per annum from the first day of the month following the month in which taxes are required to be paid, shall be collected upon the principal and applicable penalty remaining unpaid. No penalty for the failure to pay a tax or installment shall exceed ten (10) percent of the tax past due, or in the case of tangible personal property ten (10) percent of the tax levied, including any amount paid by the Commonwealth, or the sum of ten dollars (\$10.00), ~~or~~ whichever is greater; provided, however, that the penalty shall in no case exceed the amount of tax ~~due~~ levied.

(f) Effective on and after July 1, 1995, whenever the city utilizes the services of an attorney or collection agency to collect delinquent taxes on subjects other than real estate, reasonable attorney's fees or collection agency's fees shall be added to the amount of the delinquent tax bill. The attorney's fees or collection agency's fees shall not exceed twenty (20) per cent of the delinquent tax bill upon nonpayment. Attorney's fees shall be added only if such delinquency is collected by action at law or suit in equity. No tax assessment or tax bill shall be deemed delinquent and subject to the collection procedures prescribed herein during the pendency of any administrative appeal under Section 58.1-3980 of the Code of Virginia, 1950, as amended, so long as the appeal is filed within ninety days (90) of the date of the assessment, and for thirty (30) days after the date of the final determination of the appeal.

(g) Effective on and after July 1, 1995, the city shall collect an administrative fee from delinquent taxpayers to cover the administrative costs associated with the city's collection of delinquent taxes, which shall not exceed twenty percent of the delinquent tax bill associated with the collection of the delinquent taxes. Such administrative fee shall be in addition to all penalties and interest, and shall not exceed twenty dollars (\$20.00) for taxes collected subsequent to the filing of a warrant or other appropriate legal document but prior to judgement, and twenty-five dollars (\$25.00) for taxes collected subsequent to judgment. Attorney's fees shall be added only if such delinquency is collected by action at law or suit in equity. No tax assessment or tax bill shall be deemed delinquent and subject to the collection procedures prescribed herein during the pendency of any administrative appeal under

Section 58.1-3980 of the Code of Virginia, so long as the appeal is filed within 90 days of the date of the assessment, and for 30 days after the date of the final determination of the appeal.

2. That this ordinance shall be effective on its adoption.

Adopted:

Certified:

Clerk of Council

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